

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 22 and 27 have been amended, and claims 28 and 29 have been newly added. Support for the amendments is provided in Fig. 2 and the specification on page 19, lines 18-22.

Claims 22, 23, and 27 were rejected, under 35 USC §103(a), as being unpatentable over Parkvall et al. (US 6,542,736) in view of Padovani et al. (US 6,603,773). To the extent the rejections may be deemed applicable to the amended claims, Applicants respectfully traverse.

Claim 22 now defines a communication terminal apparatus that obtains variable transmit power information for a control channel and a data channel from a base station apparatus and estimates, based on the obtained transmit power information and a measured quality of the received control channel signal, the reception quality at the communication terminal apparatus of the data channel signal. Based on the estimated reception quality, the communication terminal apparatus selects one of a plurality of modulation systems and a coding system to be used for the data channel. The claimed subject matter supports improving the communication quality between the base station and communication terminal apparatus (see specification page 8, line 23, through page 9, line 1).

The Office Action acknowledges that Parkvall does not disclose the claimed subject matter of a communication terminal apparatus that obtains variable transmit power information for a data channel from a base station apparatus (see Office Action page 2, line 6 of last paragraph, through page 3, line 2, and page 3, lines 8-14). To overcome this deficiency, the Office Action proposes that Padovani discloses maintaining the transmit power of a data channel

at a known ratio to a known transmit power of a control channel so that the transmit power of the data channel may be determined from the known transmit power of the control channel and the known ratio (see page 2, line 6 of last paragraph , through page 3, line 2, and page 3, lines 8-14).

However, Padovani discloses determining the quality of a reverse link signal from the amplitude of a reverse link pilot signal. Determining the quality of a reverse link signal from the amplitude of a reverse link pilot signal is possible only when the modulation system is known between a base station and a remote station. This is mentioned in Padovani's specification, column 6, lines 64-67, "the alternative embodiment operates well if the amplitude of the data bits is maintained at a known ratio to the amplitude of the pilot signal or the forward power control bits." That is to say, if the modulation system is different, then the amplitude to provide the base of the signal points also varies. It naturally follows from this that if the modulation system is not known between a base station and a remote apparatus, then the amplitude of data bits is not maintained at a known ratio to the amplitude of the pilot signal. Padovani's system, therefore, requires a precondition that the modulation system is known in advance between a base station and a remote station.

On the other hand, with the claimed invention, the modulation system for the data channel signal is selected from a plurality of modulation systems, so that the modulation system to be selected may change per estimated reception quality of the data channel signal. Consequently, the modulation system is not known between a base station apparatus and a communication terminal apparatus and, therefore, the communication terminal apparatus has no way of knowing the transmit power value of the data channel signal using transmit power value information for the control channel signal. As a result, with the claimed invention, to estimate

the reception quality of a data channel signal, it is necessary to receive transmit power value information for the data channel signal.

Accordingly, Applicants submit that Parkvall and Padovani, considered individually or in combination, do not render obvious the subject matter now defined by claim 22. Independent claim 27 similarly recites the above-mentioned subject matter distinguishing apparatus claim 22 from the applied references, but with respect to a method. Therefore, allowance of claims 22 and 27 and all claims dependent therefrom is warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: January 28, 2009
JEL/DWW/att

James E. Ledbetter
Registration No. 28,732

Attorney Docket No. 009289-02131
Dickinson Wright PLLC
1875 Eye Street, NW, Suite 1200
Washington, DC 20006
Telephone: (202) 659-6966
Facsimile: (202) 659-1559